

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Appellant: | Boris BALACHEFF et al. |) | Examiner: Abdulhakim NOBAHAR |
| | |) | |
| Serial No.: | 09/936,131 |) | Art Unit: 2132 |
| | |) | |
| Filed: | September 4, 2001 |) | Our Ref: 30001505-4 US |
| | |) | B-4295PCT 619055-2 |
| For: | “SMARTCARD USER INTERFACE FOR TRUSTED COMPUTING PLATFORM” |) | Date: February 5, 2008 |
| | |) | |
| | |) | Re: <i>Appeal to the Board of Appeals</i> |

REPLY BRIEF

Commissioner for Patents

Sir:

This Brief is a timely reply to the Examiner's Answer mailed on December 7, 2007.

The Examiner and Appellants disagree whether claims 1, 2, 10-32, 38, 41 - 43, 45, 46, and 48 - 61 are patentable under 35 U.S.C. 102(e) over U.S. Pat. No. 6,694,436 to Audebert. This Brief replies to the Examiner's answers to Appellants' arguments against this reference and the Examiner's interpretation thereof.

REMARKS

The comments in Appellants' Brief on Appeal dated July 16, 2007 are incorporated herein by reference.

ARGUMENTS

The Audebert reference does not disclose the claims elements alleged by the Examiner.

One of the two disagreements between the Examiner and Appellants that are acknowledged by the Examiner in his Answer concerns the claimed limitation of performing a data check on a computing platform. Appellants have repeatedly explained that Audebert performs data checks *on data received* from the computing platform (server of Audebert), not *on the computing platform* as per Appellants' claims.

The Examiner alleges to answer Applicant's arguments by first attempting to divert the Board's attention with the irrelevant assertion that the "claims do not recite or specify *how* the data check or the verification operation are being performed." This is irrelevant because there is no 35 USC ¶ 112 rejection raised in this case and pending before the Board.

The Examiner continues with his attempt to read Audebert upon the claims by bringing in two dependent claims, 19 and 23, and apparently deciding that the limitations of these two claims should be read into all of the independent claims. Again, this is impermissible - if the Examiner alleges that the rest of the claims need, for whatever reason, to specify how the data check is performed, then he should reject the claims on the basis of lack of enablement (35 USC ¶ 112) rather than invent new logic to contort the clear meaning of 35 USC ¶ 102.

Perhaps realizing what thin ice of reason he is skating upon, the Examiner is apparently not above also bending the actual language of these two dependent claims as well as - once again - that of Audebert to bring the two into some semblance of equivalence. The Examiner thus asserts that "according to claims 19 and 23, the monitoring component receives some information related to the computer platform in order to perform either data check or verification operation on the computer platform, which is the same what being taught [sp] in Audebert." This could not possibly be more misleading and incorrect. (1) Both claims recite "obtaining," not "receiving," data. (2) Neither claim recites that it obtains the data in order to perform the data check. (3) Neither claim recites a verification operation, only a data check operation. (4) Claim 23 actually recites obtaining *certification* data that certifies the *status* data recited by claim 18, and does not in fact recite receiving data regarding the status of the computing platform.

The Examiner plows ahead, proclaiming that "Audebert teaches a system comprising a terminal module (corresponding to the recited monitoring component) that receives information from a server (corresponding to the recited computer platform) ... in order to identifying and/or authenticating the source of requests sent by the application (Fap) installed in the electronic unit (corresponding to the recited computer platform)..." As noted in their Brief on Appeal, Appellants could not agree more because, as they've been repeatedly explaining to the Examiner, Audebert identifies/authenticates *the source* of data, and does not verify the integrity of this source. The Examiner only reinforces this with his final pronouncement that "Audebert teaches that the filter installed on the terminal module checks the origin and integrity of the request sent

by the server (i.e., computer platform).” Yes! This is absolutely correct! Audebert checks the origin and integrity of the request sent by the server, not the integrity of the server that sent the request which is what Appellants accomplish by performing data checks on the computer platform, and which cannot possibly be accomplished within the framework of Audebert (as fully discussed in Appellants’ Brief on Appeal).

The other one of the two disagreements between the Examiner and Appellants that are acknowledged by the Examiner in his Answer concerns the claimed limitation of receiving an interrogation request signal via an interface of said computing entity (the server of Audebert). In reply to Appellants’ explanation that there is in fact no interrogation request signal received by the server (computing entity) of Audebert and that on the contrary, the requests in Audebert flow from the server to the terminal, the Examiner presently

respectfully disagrees because the claim 25 of the instant application recites:

"receiving an interrogation request signal via an interface of said computing entity;

said monitoring component performing a monitoring operation of said computer platform in response to a said received interrogation request signal", which is contrary to the appellant argument, because it is evident from the claim language that the request is received by monitoring component from the computer platform.

Audebert teaches that the application installed on the electronic unit (i.e., the server) sends a request to the terminal unit related to a user transaction process (corresponding to the recited receiving an interrogation request) and then the terminal unit authenticates the origin of the request (i.e., the server) (corresponding to the recited performing a monitoring operation). [emphasis added]

This is self-evidently incorrect as the careful reader will immediately ascertain, because contrary to the Examiner’s allegation, “the server sends a request to the terminal unit” does not correspond to “receiving an interrogation request.” “Sending” is not “receiving.” In fact, sending is the very opposite of receiving, and the Examiner himself acknowledges that all Audebert teaches is the *server sending* an interrogation request to the terminal unit. Where, Appellants ask, is the claimed *receiving at the server* (that is, via an interface of the computing entity)? Appellants respectfully submit that this limitation is also simply not to be found in Audebert.

CONCLUSION

For the extensive reasons advanced above, Appellants respectfully contend that each pending claim is patentable. Therefore, reversal of all rejections and allowance of the case is respectfully solicited.

I hereby certify that this document is being transmitted to the Patent and Trademark Office via electronic filing.

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(Date of Transmission)

Respectfully submitted,



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